

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of Arbitration between:

TRI-K INDUSTRIES, INC.,

Petitioner,

– against –

SOPHIM,

Respondent.

Civil Action No.

PETITION

Petitioner Tri-K Industries, Inc., by its counsel, Connell Foley LLP, for its petition, alleges as follows:

PARTIES

1. Petitioner Tri-K Industries, Inc. (“Tri-K”) is a distributor of chemicals and other ingredients used in the manufacture of cosmetics. Tri-K is organized under the laws of the State of New Jersey, and its principal place of business is in Northvale, New Jersey.

2. Respondent Sophim is a French corporation which produces various cosmetic ingredients. Sophim has offices in Peyruis, France.

JURISDICTION AND VENUE

3. This is a proceeding under 9 U.S.C. § 203, to confirm an arbitration award which was made in New York, New York. Furthermore, the amount in controversy exceeds \$75,000, and the parties are diverse as Petitioner is a citizen of the State of New Jersey and Respondent is a citizen of France. Therefore, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.

4. The contract between the parties provides that all disputes are to be submitted to the American Arbitration Association, which rules dictate that parties to arbitration “shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction thereof.”

5. Venue is proper pursuant to 9 U.S.C. § 9, because the Arbitration Award at issue was made in this District and the parties have not specified a Court to which the parties can apply to confirm said Award.

BASIS FOR CONFIRMING THE AWARD

6. On or about May 31, 1996, Sophim engaged Tri-K under an Exclusive Distribution Agreement (“Agreement”) to distribute various products produced by Sophim, including squalane, shark squalane, phytosqualane, polyisobutane and other products. A copy of the Agreement is attached as Exhibit A to the Affirmation of Peter J. Pizzi (“Pizzi Aff.”).

7. The Agreement provided that “[a]ll matters of dispute are to be submitted to the American Arbitration Association and their ruling is to be final and binding.” Exhibit A, ¶ 18.

8. The business relationship between Tri-K and Sophim continued until on or about January 30, 2006, when Sophim decided to cancel its relationship with Tri-K and communicated that decision through an email message to Tri-K’s President. This purported cancellation occurred during the middle of the final year of the current term of the Agreement, running from June 1, 2004 through May 31, 2006. As a result of this breach of contract, Tri-K suffered a loss of profits and other damages.

9. Tri-K filed an October 19, 2006 Demand for Arbitration with the American Arbitration Association (“AAA”). The dispute was assigned by AAA to its International Centre for Dispute Resolution (“ICDR”), where arbitrator Walter G. Gans received and considered

evidence, and rendered an award on May 8, 2007 (the "Award"). A copy of the Award is attached as Exhibit "B" to the Pizzi Affidavit.

10. Respondent has failed to voluntarily satisfy the Arbitration Award. There is now due from Respondent to Petitioner thereon the sum of \$304,101.01, with post-award interest at nine percent (9%), as provided in the Award.

11. No grounds exist upon which the Award could be vacated or modified.

WHEREFORE, TRI-K demands that this Court enter judgment in its favor and against Respondent as follows:

- (i) confirming the Award;
- (ii) granting judgment against the Respondent for \$304,101.01 with post-award interest at nine percent (9%) as in conformity with the Award;
- (iii) awarding Petitioner costs of suit; and
- (iv) granting such other and further relief as this Court deems just and proper.

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By: 
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Attorneys for Petitioner TRI-K INDUSTRIES, INC.

Dated: July 19, 2007